



US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: SPK-2007-02191

Date: October 10, 2008

Comments Due: November 10, 2008

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District (Corps) is considering a proposal to establish the Putah Creek Wetland Mitigation Bank. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for compensatory mitigation for losses of aquatic resources.

APPLICANT: ASB Southport II
1107 Kentucky Street
Fairfield, CA 94533
Attn: Jason Andrews
Telephone: 707-426-0100

LOCATION: The approximately 436.8-acre proposed bank site is located southeast of Davis, California in Section 4, Township 7 North, Range 3 East, and Section 33, Township 8 North, Range 3 East, MBD&M, Yolo County, California (Figures 1 and 2, attached). The proposed bank site can be seen on the Saxon USGS Topographic Quadrangle. The City of Sacramento occurs approximately 5 miles to the east of the bank site, and Putah Creek occurs approximately one mile to the north. The bank site is surrounded by agricultural land uses (primarily dryland crops).

PROJECT DESCRIPTION:

The mitigation banker has provided a draft bank enabling instrument (BEI) to the Corps for review and comment. The mitigation banker proposes to preserve and establish wetlands, and to restore riparian habitat within the bank site. Approximately 6 acres of waters of the U.S., including wetlands, currently exist within the bank site (Figure 3, attached). Approximately 5.20 acres of seasonal wetland exist, and 0.81 acre of ditches (waters). The mitigation banker proposes to preserve the existing 5.20 acres of wetlands. The current bank proposal seeks no mitigation credit for these preserved wetlands. The mitigation banker proposes to establish approximately 72.18 acres of wetlands, and to restore 1.97 acres (up to 2,600 linear feet) of riparian habitat along existing federally-jurisdictional ditches. As a result of these establishment and restoration activities, bank credits would be created and offered for sale to third-party permittees. In addition to the mitigation banking component of the proposal, the mitigation banker seeks to satisfy Swainson's hawk (*Buteo swainsoni*) habitat mitigation requirements under the California Environmental Quality Act (CEQA) for a specific development project in West Sacramento, California. Approximately 318.05 acres of upland habitat would be utilized by the mitigation banker for Swainson's hawk habitat mitigation. The mitigation banker does not propose to sell Swainson's hawk habitat mitigation credits to third-party permittees; this form of mitigation credit is proposed to be used solely by the bank owner, to fulfill compliance requirements for a specific project.

The bank proposal currently under review does not seek species-based impact mitigation credit for third-party permittees for purposes of the federal Endangered Species Act (ESA), California ESA or CEQA. The mitigation banker may seek wetland preservation and/or riparian restoration species preservation credit for federal ESA purposes at a future time, if federally-listed species, including but not limited to vernal pool fairy shrimp (*Branchinecta lynchi*) and Valley longhorn elderberry beetle (*Desmocerus californicus dimorphus*), are found to be present within the approximately five acres of preserved wetlands within the bank site. The mitigation banker plans to conduct surveys for listed species as a component of annual monitoring activities.

The mitigation banker's proposed Habitat Restoration and Monitoring Plan, a component of the draft BEI, describes the design and implementation of habitat establishment and restoration activities proposed within the bank site. Detailed construction plans will be submitted to the Corps and other Interagency Review Team (IRT) members for review and approval prior to initiating construction activities on the site. No Department of the Army permit will be required for the construction activities, since construction does not entail discharge of dredged or fill material into waters of the U.S.

Wetland establishment (72.18 acres) will include construction of eight "playa pools" wetlands, ranging in size from 5.3 to 15.0 acres (see Figure 4, attached), with an average size of 9.6 acres. Existing top soil within each wetland establishment area will be scraped and stockpiled for return placement within the constructed wetlands, following rough grading. A laser level will be utilized for rough and final grading to ensure design elevations and slopes are achieved. Given proper access and approvals, inoculum (seeds, soils, cysts) will be collected from existing playa pools in the nearby vicinity, and broadcast over the newly prepared surface of the constructed wetland areas. Commercial seed grown from local stock will be added if available. Inoculum and/or seeding activities would be conducted in fall, at the beginning of the rainy season. The anticipated ponding duration for the constructed playa pools is five to six consecutive months, at a water depth averaging 18 inches (range of one to three feet). Playa pool slopes will be based on nearby reference site conditions, which reflect a range of gradients from 1:1 to 10:1.

Riparian restoration (1.97 acres) will occur along the northern boundary of the bank site, in association with existing "Ditch 1" (see Figure 3, attached). No grading is proposed as part of riparian restoration. An approximately 35-foot wide riparian planting area is planned along the banks of the existing ditch. Native riparian plants, including shrubs, trees and grasses, will be propagated from locally collected materials and installed along the ditch banks.

The entirety of the 436.8-acre mitigation bank will be preserved with an open space conservation easement that would be implemented as part of the bank's final approval process. The mitigation site is proposed to be monitored and maintained according to the guidelines and performance criteria outlined in the mitigation banker's Habitat Restoration and Monitoring Plan. Monitoring to assess the success of established wetlands and restored riparian habitat will be conducted over a 10-year period, with monitoring occurring in years 1, 2, 3, 5, 7 and 10. Additional monitoring may be required if final performance criteria are not attained by the end of the 10-year period. In addition to monitoring, the bank site would be managed according to the mitigation banker's Resource Management Plan (RMP), a component of the draft BEI. The RMP addresses several aspects of land management, including grazing, invasive species control, and the ability to adapt management activities on a long term basis, as warranted, to meet the bank's goals and objectives.

Credits would be used to offset authorized impacts to federally-regulated wetlands that occur within a "Service Area" (Figure 5) corresponding to the Lower Sacramento Watershed (HUC 18020109). This watershed is approximately 1,720 square miles and is characterized by both urban and rural land uses.

ADDITIONAL INFORMATION:

Environmental Setting. The proposed bank site is surrounded by farmland, most of which has been leveled for dryland row crops. The site is located approximately one mile east of high quality vernal pools located within the U.S. Air Force Davis Communication Facility. The bank site is very flat with slopes generally less than 2%, gently sloping to the east towards the lower-lying areas of the Yolo Bypass. The site has been leveled and disked for agricultural production. Most recently, the site has been used for hay production and irrigated pasture. The northeast corner of the site appears to have been used as a former waterfowl hunting area; several berms were built to create ponded areas. The dominant plant community within the bank site is non-native grassland. Approximately 6.01 acres of jurisdictional waters of the United States exist within the property, as verified by the Corps in a letter dated July 17, 2008. Of this, 5.20 acres are characterized as seasonal wetland, and 0.81 acre are characterized as ditches (Figure 3). The jurisdictional ditches occur as perimeter features in the north/northeastern area of the site. The southern portion of the site contains several non-jurisdictional irrigation ditches. The bank site contains mapped Pescadero soils, particularly in the northwestern portion. Pescadero soils have alkaline characteristics, and are regionally associated with large, playa-type vernal pools that support a unique assemblage of vernal pool plant species tolerant of the soil chemistry. The vernal pools at the above-mentioned Davis Communication Facility primarily overlay the Pescadero soil series.

Alternatives. The applicant has not provided information concerning project alternatives. Alternatives analyses are typically not conducted for third-party mitigation activities, unless a Corps permit is required to construct a bank project (*Compensatory Mitigation for Losses of Aquatic Resources; Final Rule*, Federal Register, April 10, 2008).

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Central Valley Regional Water Quality Control Board, is not required for this project.

HISTORIC PROPERTIES: The mitigation banker has conducted a cultural and historic resources evaluation for the proposed bank site. The assessment included background research, a records search, consultation with potentially interested parties, a field survey and a subsurface archaeological sensitivity analysis. The report was completed on April 22, 2008, and was submitted to the Corps as a component of the draft BEI. Federal approval of mitigation banks constitutes an “undertaking” under Section 106 of the National Historic Preservation Act (NHPA). The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the NHPA, as appropriate.

ENDANGERED SPECIES: The proposed bank project will not affect any federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act. No federally-listed species are known to occur within the bank site. Based on review of information provided by the mitigation banker, we believe that the proposed bank site does not provide suitable habitat for federally-listed species known to occur within the project vicinity (i.e., five-mile radius).

ESSENTIAL FISH HABITAT: The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced

against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2007-02191 must be submitted to the office listed below on or before November 10, 2008.

Mary Pakenham-Walsh, Project Manager
US Army Corps of Engineers, Sacramento District
Sacramento Office
1325 J Street, Room 1480
Sacramento, California 95814-2922
Email: Mary.R.Pakenham-Walsh@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Mary Pakenham-Walsh, (916) 557-7718, Mary.R.Pakenham-Walsh@usace.army.mil.

Attachments: 5 drawings